NASW, WISCONSIN CHAPTER ...the power of social work
National Association of Social Workers

November 20, 2007

State Senator Leah Vukmir, Chair
Assembly Committee on Health and Health Care Reform
P.O. Box 8953
Madison, WI 53708

Dear Representative Vukmir:

Thank you for this opportunity to testify on Assembly Bill 463. We are speaking on behalf of the Wisconsin Chapter of the National Association of Social Workers which represents over 2300 social workers in every region of Wisconsin. Approximately 50% of our members serve as licensed clinical social workers.

Assembly Bill 463 will modify state law by adding licensed clinical social workers, marriage and family therapists and professional counselors to Wisconsin Statute 632.89, to allow these mental health professionals to receive insurance reimbursement for mental health services outside of a state regulated outpatient mental health clinic. This bill also modifies other provisions of state law to allow licensed clinical social workers, marriage and family therapist and professional counselors to receive Medicaid reimbursement for mental health services outside of state regulated outpatient mental health clinics.

The bill has three main purposes. First it eliminates duplicative regulation that currently exists for licensed clinical social workers, marriage and family therapists and professional counselors in Wisconsin. Although these professions have been regulated since 1992 by the Department of Regulation & Licensing, they have also continued to be regulated by the Department of Health and Family Services for their work in outpatient mental health clinics.

Second this bill would decrease costs for hundreds of small businesses in Wisconsin that provide mental health services to Wisconsin residents. In addition to annual clinic costs, most clinics pay thousands of dollars for supervision that would not be required under Department of Regulation & Licensing rules. They also spend countless hours dealing with extensive paperwork to retain this unnecessary oversight. With the possible exception of Michigan, Wisconsin is the only state in the United States where licensed clinical social workers are not guaranteed insurance reimbursement outside of a state certified clinic and have to deal with this costly and onerous dual regulatory oversight.

Third this bill should increase "consumer choice" and access to mental health services for some Medicaid clients by allowing licensed clinical social workers,

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marriage and family therapists and professional counselors to provide services outside of state regulated outpatient mental health clinics. Some Medicaid clients may prefer to see a therapist outside of an outpatient mental health clinic, believing their privacy could be better protected at a less public setting. In cases where clients lack transportation, allowing licensed mental health professionals to receive reimbursement outside of a state regulated clinic could provide more access to services, particularly in rural areas.

As I mentioned earlier, to the best of our knowledge every state in the United States with the exception of Michigan and Wisconsin have insurance reimbursement and approximately 50% of the states have the Medicaid reimbursement provision. Illinois just passed its Medicaid reimbursement bill unanimously. Minnesota has had both provisions of this bill for decades.

I would now like to address the fiscal note for this bill. The Department of Health and Family Services is estimating that this bill would cost the State of Wisconsin $648,200 in general purpose revenue. Although this is a tiny percentage of the overall Medicaid budget, we believe this bill could save the state money or be fiscally neutral. First of all, the fiscal notes' reference to physician referrals serving a "gate keeper" function does not fit with our experience in the field where primary care physicians and psychiatrists usually appreciate having their patients seen for psychotherapy and rarely, if ever, decline a referral. Actually referrals go back and forth because some people come to a LCSW, w/o a physician/psychiatrist, and are referred for a medical/psychiatric evaluation and treatment. Since it is not serving this gate keeping function, it ends up being unnecessary paperwork and a waste of professional time.

Secondly, although we don't have access to DHFS's budget for clinic certification unit, we think the State should save money if most of the 700 private clinics, now certified, opt out with the passage of AB463. This should save money going for staffing, transportation, supervision, and supplies for the surveyors visiting these clinics.

Thirdly, the note indicates that any time oversight decreases, MA utilization increases and the 200-600% increase in use of glucose monitors was given as an example. While durable medical supplies aren't the same as psychotherapy services, I would contend that the appropriate use of these machines could save money if lab, hospital, and ER costs went down if diabetics were using their machines. Similarly, mental health services, delivered when needed, can decrease overall medical costs—including hospitalizations and ER visits. Many primary care physicians refer patients because their emotional problems are affecting their general health. I have sat on the Task Force on Integrated Healthcare sponsored by the WI Mental Health Association and DHFS over the past couple years. The efficacy of including mental health care as an integral part of overall health care is well established and even espoused by DHFS.

Finally, the last paragraph of the fiscal note just isn't accurate, at least in the experience of my colleagues and me. Managed care companies do not depend on DHFS clinic certification. Many do their own on site visits and out of state managed care personnel have told me that WI is the only state that has the state clinic certification. They use it only because they can—i.e. to eliminate providers. What they DO depend on for credentialing is licensure!

In summary, I wish I could tell exactly how much AB463 would save/cost. I know it gives regulatory relief to small business owners running mental health and substance abuse clinics all over our state-- allowing them to devote that time to their profession of helping people.

One concern that has been raised about this bill is the issue of patient rights. Over the last several months we have held a number of meetings with consumer groups, including NAMI Dane County, which has endorsed the bill, Mental Health America, Grass Roots Empowerment and Disability Rights Wisconsin. Grass Roots Empowerment and Disability Rights Wisconsin have raised concerns about the possible loss of patient rights protections in State Statute 51.61, confidentiality of records in state statute 51.31 and the grievance procedure in State Statute 51.61. In terms of the confidentiality of patient records we have agreed to amend the bill to add licensed mental health professionals and licensed psychologists operating outside of an outpatient clinic as covered by the treatment records provision of State Statute 51.3l. In terms of general patient rights protection found in State Statute 51.61, we have learned that licensed mental health professionals providing mental health services are covered even if they are working outside an outpatient mental health clinic. In terms of the grievance procedure concern, aside from DHFS's grievance procedures, currently clients have access to the grievance procedures of the Department of Regulation & Licensing, the grievance procedures of the professional association of the practitioner, and the grievance procedures of the insurance company paying for the service. In a November 9, 2007 memo from James Yeadon with the Department of Health and Family Services, Mr. Yeadon indicated that for practical reasons, independent practitioners were left out of the state grievance procedure when it was developed in 1995. He said they decided at that time that any complaints about independent practitioners would have to be dealt with by their licensing agency, which would be the Department of Regulation & Licensing. He also said that he thinks the same reasoning should apply today- that any good therapist will try to work out any problems the client is having with them. The client can file a complaint with licensing if they believe any rights are violated by the therapist.

We agree with Mr. Yeadon's comments. We are not aware of any clinical social worker that does not have some kind of internal and external grievance procedure. Nevertheless, if necessary, we would consider some language in our conduct code or as an addition to our licensing law that would specify the

provision of an internal and external grievance procedure as a requirement of every therapist.

In terms of overall patient protection, I have attached a handout with this testimony that lists all the requirements to become a licensed clinical social worker in Wisconsin. In my fifteen years of attending meetings of the Social Workers Section at the Department of Regulation & Licensing I have learned that Wisconsin is one of the strictest states in the United States in terms of obtaining clinical licensure. There are licensed clinical social workers from other states who come to Wisconsin who do not receive reciprocity licensure because their standards are not as strict as those of Wisconsin. In Wisconsin, prior to becoming a licensed clinical social workers someone will need to pass two national exams and one state exam, complete a graduate clinical social work internship of 900 hours, complete 3,000 hours of supervised clinical social work practice after graduate school, graduate from an accredited graduate program in social work, complete three specified clinical social work courses in graduate school and complete 30 hours of continuing education including four hours of ethics education every two years.

Finally I would like to mention three amendments we are currently proposing to Assembly Bill 463. First as discussed above, we are proposing an amendment to State Statute 51.30 (1) (b) to add licensed mental health professionals and licensed psychologists practicing outside an outpatient mental health clinic in order to protect the confidentiality of their client records. Secondly we are adding to 632.89 (1) (e) 4 A licensed mental health professional within the scope of her/his practice. This addition will be added to make the bill congruent with certain restrictions under our licensure law regarding substance abuse counseling. Third we are making a technical modification to Section 5, 632.89 (1) (dm) to clarify that licensed mental health professional does not mean individuals in training for the licensed marriage and family therapist or professional counselor certificate.

Sincerely yours

Marc Herstand, MSW CISW
Executive Director
NASW WI Chapter

Ruth Ann Berkholtz, LCSW, MSW
Chair, NASW WI Clinical Network

REQUIREMENTS TO BECOME A LICENSED CLINICAL SOCIAL WORKER IN WISCONSIN

1. Admission to a Council on Social Work Education accredited MSW program
2. Completion of a Psychopathology courses and at least two additional clinical courses as specified in the law
3. Completion of a clinical, psychotherapeutic, internship of at least 900 hours
4. Internship must be supervised by an MSW. Internship must include use of DSM diagnosis and use of psychotherapeutic interventions
5. Graduation from MSW program
6. Passage of state and national exam for Certified Advanced Practice Social Worker credential (CAPSW)
7. Completion of 30 hours of social work continuing education every two years including four hours of ethics and boundaries education
8. Completion of 3,000 hours of supervised clinical (psychotherapeutic) social work practice after completion of graduate studies and after receiving the Certified Advance Practice Social Worker Credential. Clinical work must include extensive experience in using the DSM manual and engaging in a variety of psychotherapeutic interventions. A licensed clinical social worker, psychiatrist or psychologist must supervise the 3,000 hours of clinical social work practice.
9. Submission of affidavit from supervisor regarding supervised clinical practice.
10. Interview with Social Workers Section if work experience, education or field placement does not clearly meet standards
11. Passage of national clinical social work exam

State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Kevin R. Hayden, Secretary

November 20, 2008

TO: Assembly Committee on Health and Health Care Reform
FROM: Katie Plona, DHFS Legislative Liaison
RE: Assembly Bill 463

Rep. Vukmir and committee members, thank you for the opportunity to testify on Assembly Bill 463. I am here today for information only on behalf of the Department of Health and Family Services.

One of the stated goals of this legislation is to increase patient access to mental health professionals and mental health services, both in the Medicaid program and for the general population. DHFS supports this intent.

However, the Department has some concerns with changes the bill makes to protections in current law for patients accessing these services. These protections include patients' rights; a grievance process; coordination of care outside of a clinic setting and confidentiality of mental health records.

I would like to thank Senator Miller and Representative Bies, whose offices have been very receptive to work with the Department and advocates to address our concerns. We look forward to continuing to work with them.

DHFS believes there is a value to having mental health professionals practice together in a clinic. Recipients who require both medications and therapy can now receive both services at one clinic. A clinical setting is required, in part, to ensure comprehensive care. If these services are no longer co-located, it is very important that mental health professionals work closely to coordinate the patient's care.

Chapter 51.61 and DHFS Administrative Rule 94 outline the rights consumers have and the grievance process they can use if they believe a licensed mental health professional has violated their rights. While the statute and rule do appear to cover patients who see a licensing mental health professional outside of the clinical setting, it could be clearer.

AB 463 would allow licensed clinical social workers and others to practice outside of a clinic setting and bill Medicaid and insurance companies directly for their services. With this change, it is important that the statute explicitly apply to patients in their care. The Department would like to remove any ambiguity in the statutes by stating that patients seeing an independently practicing mental health professional have the same rights they have when they see that provider in a clinic.

AB 463 also would remove the grievance process that patients have when they are seeing a mental health professional in a treatment facility. This process would not apply to patients seeing that same professional who practices independently.

Under current law, each facility or program must have a grievance process and must inform the patient about the process.

There are four steps to the grievance process outlined in HFS 94. The first step is for the consumer to make a grievance to the provider. Whenever possible, the provider should resolve the grievance at that time. The consumer has the option of going through a formal or information resolution process. If the consumer and provider agree on some type of resolution, the process is complete.

If that does not occur, the provider refers the consumer to a client rights specialist who conducts an inquiry and determines whether the mental health professional violated the patient's rights and makes recommendations for changes to the provider.
If the provider rejects the client rights specialist's recommendations or the consumer remains dissatisfied, the consumer may request a review by the county department, if the county has arranged for services or pays for the services. The county then does a review and makes recommendations to the provider. Again, if the client is dissatisfied with the response or this is not a county-funded service, the client may file a request for review with the DHFS Client Rights Office.

If it is not resolved at this level, the patient may ask for the DHFS Division of Mental Health and Substance Abuse Services director to review the grievance.

The current grievance process helps facilitate a resolution at the provider level. Without it, patients would have to take extreme measures that may not always be the most appropriate way to handle a grievance to their satisfaction and that of the provider. The options would include filing a lawsuit or alleging professional misconduct against a provider's license with the Department of Regulation and Licensing.

Chapter 51.61 and the grievance process in HFS 94 is the most effective and timely way to resolve most consumer complaints. The omission of the grievance process seems to be an unintended consequence of AB 463. DHFS would like to work with the bill's authors to address this concern.

Another concern with AB 463 as currently drafted is regarding the confidentiality of mental health records. Chapter 51.30 provides protection to a patient's treatment records. This statute references a patient's records kept by DHFS, a county or a treatment facility. Because AB 463 allows licensed clinical social workers to treat patients outside of a treatment facility, Statute 51.30 should be amended to add treatment records that independently practicing mental health professionals keep.

An additional concern with AB 463 as currently drafted is the term "supervision" in the bill. The bill language could be interpreted to mean that DHFS cannot require any type of oversight of licensed mental health professionals who continue to practice in a clinical setting. We would like to work with the bill authors to correct this.

Lastly, I would like to share information about the fiscal note. The Department believes the changes in AB 463 will result in increased costs for the Medicaid program. When other "gatekeeping" requirements have been discontinued, such as when DHFS removed prior authorization requirements for certain services, costs increased anywhere from 250 percent to 600 percent. While we do not believe AB 463 will result in that large of increases, we do believe a conservative estimate of a 20-percent increase due to more access to services and greater utilization is appropriate. The Department estimates an annual increase in $1.5 million all funds, which would be $648,500 GPR.

There are very few services in the Medicaid program that do not require a physician prescription. It is a basic principle of the Medicaid program. This makes it difficult to precisely develop a cost-estimate for AB 463. I know others will disagree with the Department's fiscal note and contend that this bill will be cost neutral or

create a cost savings to the Medicaid program. It is logical to assume some offset in costs, primarily from billing that occurs each time a physician sees a patient and refers the patient to a mental health professional.

However, we do think any of those savings will be offset by the continued need for the mental health professionals affected by AB 463 to work with psychiatrists and physicians to ensure comprehensive care for their patients. In many cases, medications are part of the treatment for mental health and psychiatric conditions. These medications would require ongoing monitoring and reevaluation by psychiatrists or physicians.

Thank you again for the opportunity to testify on AB 463. I am happy to answer any questions you may have.

Burelbach Psychotherapy, LLC
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Assembly Bill 463 Public Hearing
Testimony of Support

November 20, 2007

Burelbach Psychotherapy, LLC: I moved to Wisconsin in 2001 after having practiced as a clinical social worker in three other states: Ohio, Illinois and Tennessee. I dreamed of starting a private practice for years, and it was finally my chance to fulfill that dream. You can imagine my shock when I learned that my clients and I were not guaranteed the same right to insurance coverage that my competition, the Department of Health and Family Services certified clinics were given. As a Licensed Clinical Social Worker, I have the right to practice independently. Assembly Bill 463 will give me a chance to have a successful business by allowing me to compete with my local DHFS clinics on equal ground.

Duplication of Regulation: My private practice operates under Department of Regulation and Licensing standards. DRL is my governing body just as it is for licensed physicians and psychologists. According to Wisconsin law, I can independently diagnose and treat through psychotherapy mental and emotional disorders. I should have the same right to insurance reimbursement and my client should have the same right to insurance coverage whether I am treating that client in a DHFS certified clinic or whether I am treating that client in a private practice setting. At this time, my clients and I are only guaranteed the right to the mandated insurance coverage if I am practicing in a DHFS certified clinic. It is entirely unfair to independent practitioners and to their clients to tie insurance benefits to a certified clinic system.

Consumer Protection: Wisconsin Consumers are protected when Licensed Clinical Social Workers are operating outside of the Department of Health and Family Services clinic system. Licensed Clinical Social Workers are regulated through the Department of Regulation and Licensing Codes and by the Mental Health Act. Furthermore, insurance companies have their own quality assurance standards that practitioners must follow. Assembly bill 463 is about inclusion for Licensed Clinical Social Workers and for their clients in the mandated insurance coverage. Issues of regulation of practice were addressed in 2002 when clinical social workers were licensed to practice independently.

Private Practice Benefits: Private practitioners are a benefit to the community. They typically offer a more private and confidential setting for their client. This makes a difference to people who do not wish to wait in a crowded waiting room. The community is in need of our services. There are many organizations who seek to contract services from private clinicians. However, these practitioners are difficult to find as they are locked in the clinic system. Opening the door to competition opens the door to creativity and innovation and the community benefits. It increases access to consumers and it increases consumer choice.

The Mandate: Assembly Bill 463 is **not** asking for an increase in the insurance mandate. Insurance companies are already mandated to provide this coverage. Assembly bill 463

includes Licensed Clinical Social Workers and their clients in the right to insurance coverage outside of the DHFS clinic system.

Summary: I ask for your support for Assembly Bill 463 which simply amends the current insurance mandate to include Licensed Clinical Social Workers and other licensed mental health professionals so that we as private practitioners operating under our license have the same right to insurance revenue as a DHFS certified clinic. Assembly Bill 463 would also allow for the Wisconsin consumer to have choice and increased access to practice settings and to providers.

Jennifer L. Burelbach
MSSA, LCSW

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Linda A. Hall
Executive Director

TO: Honorable Members of the Assembly Committee on Health and Health Care Reform

FROM: Linda A. Hall, Executive Director

DATE: November 20, 2007

RE: Assembly Bill 463

On behalf of the Wisconsin Association of Family & Children's Agencies (WAFCA), I offer the following thoughts regarding Assembly Bill 463, which would require private insurers and the Medical Assistance program to reimburse individual licensed social workers, marriage and family therapists and professional counselors for psychotherapy and AODA services.

WAFCA represents over forty private for-profit and nonprofit agencies that provide mental health, education and social services to people in need and employ hundreds of mental health professionals across the state. Our members' services include family, group and individual counseling, chemical dependency treatment, crisis intervention, day treatment, domestic violence programs and outpatient mental health therapy, among others.

Elimination of Physician Prescription for Mental Health

Let me begin by emphasizing our support for the elimination of the current physician prescription requirement for MA reimbursable mental health services. Individuals in need of mental health services should be given a variety of access points to service and are often identified and assessed by licensed mental health professionals serving in many capacities throughout our community social services systems. The physician prescription process is one more barrier to timely access and adds little value to the assessment and treatment process.

The DHFS fiscal note identifies potential increased costs resulting from the elimination of the physician prescription requirement. However, the fiscal note does not appear to account for the savings that could be realized by simply eliminating the need for the physician visit to execute the prescription, nor does the fiscal note adequately capture the long term savings that would result from the timely delivery of mental health services. Just as with physical health concerns, delays in treatment can result in more expensive interventions in the future including emergency room visits and hospitalizations.

Services for Recipients of Medical Assistance

While AB 463 may increase the number of mental health and AODA service providers in the state, the increased flexibility for professionals to operate independently could have an unintended detrimental effect on the availability of services to those on Medical Assistance. Since MA reimbursement falls short of the cost of providing services, mental health clinics rely on commercial insurance clients to maintain financial viability. As more professionals operate

independently, it is possible that these clients may be drawn out of the clinics, thus eroding the financial stability of clinics and making it more difficult for clinics to take on MA clients. It would be unfortunate if the enactment of AB 463 resulted in a decrease in the providers willing or able to take on MA clients. We would welcome an exploration of this issue and what might be done to avoid this scenario.

Value of Clinics

If Wisconsin enacts AB 463 and permits licensed mental health professionals to directly bill insurance and MA, we will be following the majority of states in the country, which currently authorize such independent billing. As noted above, such flexibility could benefit consumers by expanding the number of provider choices available to them. In addition, by eliminating the current supervision requirements for practitioners, AB 463 opens up new possibilities for existing agencies and clinics to restructure their mental health services.

While such flexibility may be generally advantageous, it is important to note that the clinics provide a multidimensional treatment structure that also offers an additional layer of consumer protection for clients receiving mental health services. On-site supervision provides a level of quality assurance that cannot be replaced by the oversight of the state licensing boards which primarily react to consumer complaints against individual practitioners.

Many consumers, including MA clients, come to treatment with multiple issues or come with one issue that turns out to be something else. For these consumers, there are advantages to receiving services in a clinic where mental health professionals with a variety of expertise and levels of experiences can easily consult with other members of the team. Clinicians operating independently may not have such ready access to colleagues and other social services professionals to collaborate on assessment and treatment plans.

Finally, we would encourage the committee to carefully consider some of the technical revisions to AB 463 that have been suggested by the Marriage and Family Therapy, Professional Counseling and Social Work Joint Examining Board and others. As with any significant shift in state regulatory practice, the current draft of AB 463 creates some areas of inconsistency between existing statutes and administrative rules that should be clarified before moving forward. Conformity with significant administrative rule changes that are in process, for example, the Outpatient Mental Health Clinic rule (HFS 35) should also be considered.

Conclusion

WAFCA understands that the intention of AB 463 is to acknowledge the professional status and qualifications of licensed mental health professionals in this state and to enable them to practice in a manner similar to other licensed professionals in Wisconsin. While there are advantages to moving in this direction, there are also reasons to be deliberate in thinking through all the provisions of this bill. Going forward, we hope that the state continues to pursue a structure for mental health services that values a variety of treatment settings and models and that empowers consumers, while maintaining appropriate protections, especially for our most vulnerable citizens.

Wisconsin Coalition of Behavioral Health Providers, Inc.
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Testimony on Assembly Bill 463
Before the Assembly Committee on Health and Health Care Reform
November 20, 2007

Good morning, Madam Chair and Members of the Committee. My name is David Dropkin, Gary Yeast, Don Norman (Whoever! Give your titles and professional credentials).

I (we) represent the Wisconsin Coalition of Behavioral Health Providers, Inc., an umbrella organization for the Wisconsin Association for Marriage and Family Therapy, the Wisconsin Counseling Association, and the Wisconsin Mental Health Counseling Association. We are mental health professionals all licensed by the Department of Regulation and Licensing under Chapter 457 of the Wisconsin Statutes. Also included in our coalition is the Wisconsin Association of Behavioral Health Services, which includes mental health clinics, regulated by the Department of Health and Family Services.

We come before you today to comment on AB 463. The purpose of the bill is to enable mental health professionals to be paid by insurers and Medical Assistance as third parties while insuring our patients are covered by MA or mental health insurance coverage required under the statutes.

When the mental health statutes were created almost thirty years ago, our professions were unlicensed. In the absence of licensure, the then-Department of Health and Social Services was authorized to regulate mental health clinics where we practiced to ensure quality and continuity of patient care. Our professions, education, and training have evolved to high standards of practice over the years, and in 2001, the legislature changed the law to regulate our licensure by the Department of Regulation and Licensing. DHFS continues to regulate mental health clinics, and we are required to provide service through them in order to be reimbursed by insurance companies and Medical Assistance.

Our members support third party payment, or "vendorship." We think Assembly Bill 463 will allow mental health professionals more flexibility in providing services, potentially lowering operating costs and increasing patient access to services—the same flexibility that other health professionals now have.

We do, however, have serious concerns about eliminating DHFS's role in regulating clinics and standards of care for Medical Assistance patients. These patients tend to be more vulnerable and are not usually as "system savvy" about how to redress grievances or report irregularities in their treatment as other

patients might be. Filing complaints with the Department of Regulation and Licensing may eventually result in a provider licensure revocation, but DRL is not the patient protection enforcement agency that we think may be needed in this area.

We have suggested to the NASW and patient advocacy groups an amendment to the bill that would satisfy our concerns. In Section 1, page 3, replace the phrase "the department may not require" with "the department may waive...". The amendment would allow the department to enable providers to be paid outside a clinic environment. There is reason to have this flexibility since access to treatment is a serious problem for MA and other patients in underserved areas.

We recognize that this suggestion may not resolve the concerns of all parties, but we welcome working with other groups on alternative solutions.

Until these concerns are addressed, we cannot fully support AB 463.

Thank you Madam Chair and Members of the Committee for the opportunity to speak to you today.

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WISCONSIN COALITION OF BEHAVIORAL HEALTH PROVIDERS, INC.

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TESTIMONY ON ASSEMBLY BILL 463
Before the Assembly Committee on Health and Health Care Reform

November 20, 2007

I represent the Wisconsin Coalition of Behavioral Health Providers, Inc. We want to comment on Assembly Bill 463. The primary purpose of this bill is to allow licensed master level mental health providers vendorship in a sole or group private practice. Currently many insurance companies require these providers to work in an outpatient mental health clinic certified by the Wisconsin Department of Health and Family Services.

During the last three years, the Wisconsin Coalition has been working closely with DHFS in updating the administrative rule for the 800 plus certified clinics in Wisconsin. This year we have also included the Wisconsin Department of Regulation & Licensing, Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board. We recently agreed on a final draft that will be going to the Assembly and Senate likely in the beginning of 2008.

We recommend your committee consider AB463 in relationship to the revised DHFS administrative rule for outpatient clinics. It is the goal of the Wisconsin Coalition to allow consumers and providers, who are small business owners, to have the option of providing mental health services either in a private practice or a certified outpatient mental health clinic. Thus, AB463 needs to be amended so it does not interfere with the new administrative rule.

We recommend your committee consult with DHFS, DRL, NASW-Wisconsin Chapter, and the Wisconsin Coalition to determine how best to amend AB463.

It has always been the purpose of the Wisconsin Coalition over the past thirty years to equally represent the three disciplines relative to master level behavioral health providers: marriage and family therapy, professional counseling, and social work. We will support AB463 if it allows for both certified outpatient mental health clinics and private practice, and all three disciplines equally represented.

Gary Yeast on behalf of the Wisconsin Coalition.

WISCONSIN COALITION OF BEHAVIORAL HEALTH PROVIDERS, INC.

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TESTIMONY ON ASSEMBLY BILL 463
Before the Assembly Committee on Health and Health Care Reform

November 20, 2007

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Gary Yeast on behalf of the Wisconsin Coalition.

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Testimony on Assembly Bill 463
Before the Assembly Committee on Health and Health Care Reform
November 20, 2007

Good morning, Madam Chair and Members of the Committee. My name is David Dropkin. I hold a masters degree in counseling, am a licensed professional counselor and a licensed marriage and family therapist. I own and operate an outpatient mental health and addiction treatment clinic located in Brown Deer. I am also the current President of the Wisconsin Association of Behavioral Health Services (WABHS). WABHS is the only statewide organization that represents the interests of mental health and addiction treatment clinics in Wisconsin

As part of my duties as the president of WABHS I serve as our representative to the Wisconsin Coalition of Behavioral Health Providers, Inc., an umbrella organization whose other members are the Wisconsin Association for Marriage and Family Therapy, the Wisconsin Counseling Association, and the Wisconsin Mental Health Counseling Association. We are behavioral health professionals all licensed by the Department of Regulation and Licensing under Chapter 457 of the Wisconsin Statutes.

I come before you today to comment on AB 463. The intended purpose of the bill in my view is to enable licensed mental health professionals to be paid directly by third party payors. Currently as you may be aware third party payors are not required to pay directly to masters level clinicians for outpatient mental health and addiction services they provide. According to Wisconsin Statute 632.89 (1)(e) licensed mental health professionals are not listed under the definition of outpatient services and so are not eligible for direct reimbursement by third party payors. The bill you are considering today would, among other things, list licensed mental health clinicians under the definition of "outpatient services".

As an organization WABHS is made up of clinics from both rural and urban areas. Small clinics that have a few providers and large clinics that are part of statewide organizations. As such we have not reached a single consensus regarding the passage of this bill. We see this as being a complex issue that should not be considered quickly or without through review. We continue to discuss this with our members to get their view on the legislation.

I feel confident in saying that our members support third party payment, or "vendorship." We think Assembly Bill 463 will allow third party payors more flexibility in securing outpatient mental health services for their subscribers. It has the possibility to potentially lower operating costs and increasing patient access to services—the same flexibility that other health professionals now have.

As a clinic owner and provider I have serious concerns regarding the limitations that this bill will place on the State of Wisconsin Department of Health and Family Services. The aspect of this bill that I object to is found on page 3 lines 1, 2, and 4. In these lines DHFS is prohibited from requiring that providers be supervised, work within a state certified clinic and obtaining a physician referral for the treatment they are providing. I believe that these prohibitions will place a large number of patients at risk. These patients, those receiving services through the state Medicaid program tend to be dealing with more complex problems and as such are more vulnerable and may not be as "system savvy" about how to redress

Wisconsin Coalition of Behavioral Health Providers, Inc.

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Testimony on Assembly Bill [illegible]

Before the Assembly Committee on Health and Health Care Reform

November [illegible], 2007

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[illegible]

Jim Doyle
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Celia M. Jackson
Secretary

WISCONSIN DEPARTMENT OF REGULATION & LICENSING

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Testimony on Assembly Bill 463
Before the Assembly Committee on Health and Health Care Reform
November 20, 2007

Good morning, Madam Chair and Members of the Committee. My name is Arlie Albrecht. I am here representing the Joint Examining Board of Marriage and Family Therapy, Professional Counseling and Social Worker and Social Work at the Department of Regulation and Licensing. I serve on the Marriage and Family Therapy Section. I am dually licensed as a Marriage and Family Therapist and Clinical Social Worker. At the July 31st Joint Board Meeting, Assembly Bill 463 was endorsed I was empowered by the Joint Board to communicate this endorsement to you and the Committee members. A hard copy letter was sent in anticipation of today's meeting. Subsequent to the July 31st Joint Board Meeting, there are several amendments to the original bill and the Joint Board will address them at the next meeting in January 2008.

The Joint Board supports AB 463, as it is the next step in implementation of Act 80 and Chapter 457, which afforded licensure to Marriage and Family Therapist, Professional Counselors, and Social Workers. Licensure is the main mechanism most States utilize for public protection. Passing of this legislation will be consonant with other surrounding States (i.e. Minnesota, Michigan and Illinois). The Joint Board therefore requests that the Committee endorse AB 463.

Thank you Madam Chair and Members of the Committee for the opportunity to speak to you today.

Respectfully,

Arlie J. Albrecht, MSSW, LMFT, LCSW
Marriage and Family Therapy Section

Arlie

From: "Kuehl, Bruce" <KuehlB@uwstout.edu>
To: "Arlie Albrecht" <arliealbrecht@new.rr.com>
Sent: Friday, November 09, 2007 12:48 PM
Attach: AMENDMENTS TO ASSEMBLY BILL 453.doc
Subject: FW: Amendments to Assembly Bill 453 Document

Hi Arlie,
I hope your orientation/training at DRL went well. I did not attend this training so I will be interested to learn if there is anything you find that we need to pay closer attention to in either the MFT section or on the joint.

I've attached the Amendments we discussed on the phone. I still haven't taken the time to really study them, but I anticipate and hope they address much of the concerns people have about their impact on HFS clinics.

You asked me to reiterate my thoughts regarding the upcoming hearing. I agree with your intention to stick close to the motion passed in the joint MPSW meeting. If pressed for information by the committee, I would say that from a MPSW perspective we support the bill because the existing MPSW licensing rules for MFTs, PCs and SWs do an adequate job of public protection (I'd be familiar with MPSW 20 to give examples). If it seems appropriate, I might mention that licensing therapists is the main mechanism most states use for public protection. I might mention that in most states third party payers (insurance) use licensing as a guide when authorizing mental health services. The contents of this bill are not unusual. If pressed about clinic rules and MA (which I doubt you will be), I would say that clinic regulation or MA does not fall within our rules and so MPSW has no comment on that. The only thing in the bill that does conflict with 457 and MPSW rules is the Substance Abuse Specialization requirement for treating SA. I wouldn't bring this up unless pressed. (In fact, as you know, the joint board already has a subcommittee reexamining the need to change the rule regarding the SA specialization, maybe dropping it as a requirement. But I don't think I would mention this because we don't know how it would play out.)

These are just my thoughts, Mr. Albrecht. Use them as you see fit. If they work, I'll share in the credit. If they don't, I'll say it was all your fault ☺!!!
Bruce

I am SUPPORTING AB 463 - to give licensed mental health professionals similar respect and independence -as all other licensed professionals have regarding the running of their own practice.

I have run a small state licensed clinic for 24 years in Madison, Wisconsin. I have always passed the Department of Regulations standards and have not ever received citations or complaints. Before coming here, I had been in private practice in Washington, D.C. I saw clients on my own and with the Human Sexuality Institute (30 years in practice). I am a licensed marriage and family therapist, licensed clinical social worker and certified sex therapist. I collaborate and consult on a regular basis with many other professionals and have many subspecialty areas in mental health. I have provided a valuable service in my small practice affording clients the privacy they deserve for often very personal concerns.

Over the years, to maintain my clinic status, I needed to retain a psychiatrist that was very **costly** and often unnecessary as my specialties were different than his. I often had him see clients only as a formality to meet the requirements which was sometimes an invasion of my client's privacy- as is having state personnel workers come to look at our records which should be entirely confidential. A person starting a clinic today would pay in between $8-9,000 for the years I have been in practice to have the state oversee their clinics. I do not benefit from the reviews, nor do my clients. The proposed new rules, adding more scrutiny and requirements were excessive and paternalistic. Some of the requirements were leading to drumming long term practitioners like me or some of my colleagues out of business. What or who does that serve? My husband has been a licensed chiropractor for 25 years and never has he had to stop his practice for someone to come and look at his records or how he conducts his practice. I believe the state should be available if there is there is a complaint filed like in any other field. They could offer trainings or make up possible guidelines in a handbook- especially for new practices that might want to benefit from the experience of others. Taxpayers don't need the additional cost of over – regulating already licensed practitioners. Outcome studies have shown that a key ingredient for success in therapy is the relationship between the therapist and client, not necessarily the type of therapy or the amount of paperwork that is done in a prescribed way.

I have decided not to be part of a larger clinic for many reasons and at this time part-time practice is best for me raising children and having other family obligations. I offer a unique set of skills that required many years of devoted training and dedication to my clients, colleagues and this community as a therapist, consultant, trainer and teacher. My clients appreciate being able to use their insurance when it appropriately covers therapy or many pay out of pocket.

I support AB463- it is time to pass it -lessening the burden on taxpayers and individual practitioners or independent groups of therapists practicing according to their abilities, specialties and for the needs of their clients. Consumers can choose services that suit them. Thank you for considering my view point .

Sincerely,

Cara Hoffert LCSW, LMFT

Cara Hoffert Arboretum Counseling Center 921 Chapel Hill Rd. Madison, Wisconsin 53711 608 276-0111

1/20/07

COMMENTS ON ASSEMBLY BILL 463
November 20, 2007

I received my master's degree in clinical social work from the University of Missouri, Columbia, in June, 1967. During my 40-year career, I have practiced both as a health care administrator and mental health therapist.

For 17 years, I was the CEO of community mental health programs responsible for providing comprehensive mental health services to populations of 100,000 or more. Concurrent with my work in community mental health, I served as a founding board member of Prime Health, Kansas City's first HMO. After serving 8 years on the HMO board, I was recruited to manage its original clinic: a comprehensive outpatient clinic (with lab, xray, pharmacy, and outpatient surgery) serving 27,000 HMO members.

In August, 2001, I moved to the State of Wisconsin to wind down my career by assuming directorship of University Health and Counseling Services at University of Wisconsin-Whitewater where 4,000 students came each year for health or counseling services.

My comments are based on experience in both physical and mental health care settings. In every one of these settings I was responsible for addressing quality of care, cost/benefit ratios, and operating efficiencies. Therefore, I speak from experience.

1. First and foremost, the purpose of AB 463 is to require insurance reimbursement to all licensed mental health providers, not just some. This measure gives Wisconsin residents equal access and broader options in seeking mental health services.
2. It is now widely understood that emotional status profoundly impacts physical well-being. Example: at UW-Whitewater we learned through surveys that 9% of our students had been subject to physical or sexual abuse before coming to college. Knowing that this experience impacted the student's physical well-being and ability to perform in college, we made this query a routine part of our health history form.
3. People with mental health problems usually start with their personal physician because psychological pain usually presents as physical pain and distress. When patients present physical complaints, their physicians must investigate, even when there is high suspicion that the core issue is a mental health problem. In order for physicians to meet their responsibilities, they must often order costly, and often unnecessary, tests and procedures to address these physical complaints.
4. Mental health professionals have a professional responsibility to look at all possible contributing factors: mental status, environmental issues, and physical health problems even when the client had been referred by a physician. In my clinical practice, I referred many clients to physicians for suspected medical conditions. I also sent clients back to their physician for re-evaluation based on suspicion that a physical problem was lingering untreated. These clients often returned to say their doctor found an untreated condition which, for many reasons, was not evident at the time they were initially seen. Both the physician and I did what we were trained to do. The problem is that overriding emotional problems can obscure legitimate medical problems. Good health care requires teamwork and partnership among many health care specialists.
5. During my four years managing the HMO clinic, I handled every complaint coming from 27,000 members. When the complaint was medical, I met with the medical supervisor (an internist) and specialist physicians who advised whether the medical service was appropriate. 99% of the time, the medical service was completely

appropriate. I resolved many of these medical complaints 1) by clarifying erroneous expectations on the part of the patient or 2) giving the physician important information that the patient had failed to report when they were seen.

6. Wisconsin requires physician referral as a condition for reimbursing mental health or substance abuse disorders, but does this policy add value? I think not. Despite obviously sincere intent, this policy delays appropriate mental health care while adding considerably to the total cost of care. Mental health practitioners have an obligation to address the possibility of (i.e. "rule in") medical problems. They then must ask a physician to assess, treat, or "rule out" the presence of a suspect medical condition. If the process starts with the physician, the physician has no option but to follow standard medical practice, which oftentimes requires costly tests and procedures. Since mental health therapists are required to assess for possible medical problems, they routinely refer clients to physicians for medical attention.
7. Fortunately, the stigma of receiving mental health care has greatly decreased. People are more able to recognize a mental health problem and more readily seek appropriate care. With Assembly Bill 463, Wisconsin residents can more readily access needed mental health and substance abuse services.

There remains the obvious and reasonable question: will this bill add to health care costs? Obviously, if access is increased, so will utilization of mental health services. In my experience, the additional mental health costs are readily offset by reductions in unneeded medical tests and procedures and, more importantly, major costs such as emergency room work-ups for heart attacks for persons experiencing panic attacks.

Given my 30 years in health care management where I had to maintain constant vigil on quality of care, cost/benefit, and efficiency, believe AB 463 will not add significantly, if at all, to Medicaid and private insurer costs. At the same time, I see it as assuring more efficient and more appropriate mental health care for Wisconsin residents. Our present practice of limiting cost by restricting access to mental health services is a "penny-wise and pound foolish" strategy. If we want to cut costs, we must direct our attention to where the major costs lie. Outpatient mental health care is not the place.

Wisconsin is extremely diligent in its licensure of professionals. Having gone through that process in two States, I can personally attest to that. DRL is very thorough in assuring that licensed practitioners have the necessary qualifications to do what they are licensed to do. It also has a system for processing complaints. We can safely do away with the redundant and costly oversight imposed by DHFS on mental health professionals who are not Ph.D. psychologists or psychiatrists. If licensing is to serve its purpose, as I believe it truly does in this State, no licensed mental health professional need be monitored beyond what is done by DRL and the professional associations.

I consider Assembly Bill 463 highly responsible legislation and urge your support.

John F. Macek

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disability**rights** | WISCONSIN

November 20, 2007

To: Members of Assembly Committee on Health and Healthcare Reform

From: Dianne Greenley, Supervising Attorney
Disability Rights Wisconsin

Re: 2007 Assembly Bill 463

Disability Rights Wisconsin is not taking a position on A. B. 463 at this time. We do not oppose the concept of allowing licensed mental health professionals to bill for insurance benefits and Medical Assistance. We strongly support increasing access to mental health and substance abuse treatment across the state and believe that this bill may be a positive step in this direction.

However, we have some concerns about the applicability of patient rights and the patient rights grievance procedure to mental health professionals who are providing services outside a clinic or other mental health/substance about treatment program. Currently, the rights under Sec. 51.61, Wis. Stats., apply to all persons receiving services for mental illness, substance abuse or developmental disability. Examples of these rights are the requirement to be involved with treatment planning and to give consent to treatment, the right to be treated with dignity and respect, the right to confidentiality, etc. The Wisconsin Department of Health and Family Services has interpreted this statute and accompanying administrative rules as applying to mental health professionals working outside of a clinic setting. However, the Department has also interpreted the law to not require such providers to have a grievance procedure. Thus, consumers have no way to raise patient rights violations except by going to court or possibly filing a complaint with the Department of Regulation and Licensing.

We would like to see amendments to Sec. 51.61 to clarify that the patient rights do apply to consumers receiving treatment from "licensed mental health professionals" and that they have a right to a grievance procedure. At a minimum such a grievance procedure should ensure that it is in writing and a copy is given to the consumer; the person handling the grievance was not involved in the action giving rise to the grievance; there are time frames for responding to grievances and appeals; there is an appeal process; and there are protections against retaliation for persons filing grievances or anyone assisting with the grievance.

We feel that is very important that all mental health consumers have patient rights protections regardless of the setting where they receive these services and that they have a way to raise issues about possible rights violations that is efficient and effective.

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MADISON MENTAL HEALTH SERVICES

Cara Hoffert

From: "James McGloin" <jmcgloin@wisc.edu>
To: "Cara Hoffert" <carahoffert@sbcglobal.net>
Sent: Monday, November 19, 2007 11:42 PM
Subject: PUBLIC HEARING NOV 20

To Whom It May Concern: As the Executive Director of Madison Mental Health Services, 702 N. Blackhawk Avenue, Ste 104, I am writing in strong support of Assembly Bill 463, which provides for a long-overdue modification of WI Statute 632.89. When the statute was written, over 30 years ago, the only mental health professionals who were licensed were psychiatrists and psychologists. Hence only psychiatrists and psychologists were entitled to direct third-party payments of mandated benefits for their services, and state-certified clinics were established to permit unlicensed professionals to work under supervision and receive third-party payments through these clinics. Now that clinical social workers and other mental health professionals are also licensed, they should be permitted to practice and receive payments on the same basis as psychiatrists and psychologists. Thank you. Sincerely, James F. McGloin, Jr., Ph.D., LCSW

James F. McGloin Jr Ph.D, LCSW